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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-493**

13 **SOCORRO GUADALUPE DIAZ**
666 1/2 Bradshaw Avenue
14 Los Angeles, CA 90022
Registered Nurse License No. 634034

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs (Board).

22 2. On or about March 9, 2004, the Board issued Registered Nurse License No. 634034
23 to Socorro Guadalupe Diaz (Respondent). The Registered Nurse License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on December 31, 2011,
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), Board may renew an expired license at any time within eight years after the expiration.

6. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

8. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her

1 ability to conduct with safety to the public the practice authorized by his or her license.

2 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
3 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
4 or the possession of, . . . , the substances described in subdivision (a) of this section, in which
5 event the record of the conviction is conclusive evidence thereof. . . ."

6 REGULATORY PROVISION

7 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

8 "A conviction or act shall be considered to be substantially related to the qualifications,
9 functions or duties of a registered nurse if to a substantial degree it evidences the present or
10 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
11 safety, or welfare. . . ."

12 COST RECOVERY

13 10. Section 125.3 provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE

18 (Convictions of Substantially Related Crimes)

19 11. Respondent is subject to disciplinary action under sections 490 and 2761,
20 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
21 Respondent was convicted of crimes substantially related to the functions or duties of a registered
22 nurse which to a substantial degree evidence her present or potential unfitness to practice as a
23 registered nurse in a manner consistent with the public health, safety, or welfare. The
24 circumstances of the conviction are as follows:

25 a. On or about August 28, 2007, pursuant to a nolo contendere plea to two misdemeanor
26 counts and admissions of priors to both counts, Respondent was convicted of violating Vehicle
27 Code sections 23152(b) [driving with 0.15% BAC], and 14601(a) [driving when privilege
28 suspended or revoked with prior] in the criminal proceeding entitled *The People of the State of*

1 *California v. Guadalupe Diaz Socorro* (Super. Ct. Los Angeles County, 2007, No. 7AH03379.)
2 The Court sentenced Respondent to seven (7) days in jail, placed her on three (3) years probation,
3 among other conditions. The circumstances of the conviction are that on or about June 27, 2007,
4 after a traffic stop, Respondent admitted to the police officer that she just had 2 beers.

5 b. On or about March 20, 2007, pursuant to a nolo contendere plea, Respondent was
6 convicted of one misdemeanor count of violating Vehicle Code section 14601.1(a) [driving when
7 privilege suspended or revoked] in the criminal proceeding entitled *The People of the State of*
8 *California v. Guadalupe Diaz Socorro* (Super. Ct. Los Angeles County, 2006, No. 6JB08877.)
9 The Court placed Respondent on three (3) years probation.

10 c. On or about March 8, 2006, pursuant to a nolo contendere plea, Respondent was
11 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving with
12 0.18% BAC] in the criminal proceeding entitled *The People of the State of California v.*
13 *Guadalupe Diaz Socorro* (Super. Ct. Los Angeles County, 2006, No. 6AH00751.) The Court
14 placed Respondent on three (3) years probation, among other conditions. The circumstances of
15 the conviction are that on or about January 8, 2006, Respondent drove into a McDonald's drive-in
16 lane and rear-ended the vehicle in front of her. Respondent admitted to the police officer she had
17 3-4 beers within the last few hours.

18 SECOND CAUSE FOR DISCIPLINE

19 (Alcohol-Related Convictions)

20 12. Respondent is subject to disciplinary action under sections 2761, subdivision (a),
21 and 2762, subdivision (c), on the grounds of unprofessional conduct, in that Respondent was
22 convicted of criminal offenses involving the consumption of alcohol. Complainant refers to and
23 by this reference incorporates the allegations set forth above in paragraph 11 inclusive, as though
24 set forth fully.

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